

**Summary of Third Negotiation Session on  
New Water Supply Agreement**

**Date of Session:** November 25, 2002  
**Place:** Santa Rosa Laguna Pumping Plant  
**Time:** 9:00 AM – 12:00 Noon  
**Parties Present and Represented:**  
Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, Windsor  
Districts: North Marin, Marin Municipal, Sonoma County Water Agency,  
and Valley of the Moon  
Absent: Forestville Water District  
(See Attachment A for complete list of attendees).

**A. Opening Public Comment**

Chris Sliz, Interest Based Negotiation (IBN) facilitator, opened the meeting inviting public comment. Jo Timmsen expressed appreciation for opportunity for public comment. Chris then reviewed Agenda topics and asked negotiators to “check-in” and introduce themselves.

**B. Voting Method**

Since Forestville was absent, voting represents the consensus of nine Parties (Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, Windsor, North Marin, Marin Municipal, and Valley of the Moon). Each of the nine had one vote to cast pursuant to the rule adopted by the WAC at its meeting of September 9, 2002, namely:

- Decision making style: Consensus (defined as all Parties agreeing they are either (a) for an issue (thumbs up), (b) can live with it (thumbs horizontal) or (c) opposed (thumbs down). Vote results are reported in parentheses where taken as (a/b/c).
- If Parties can’t come to consensus, table the issue and deal with it at the end of the negotiation.

Except for category headings, use of bold font indicates items considered and voted on by the Parties.

**C. Review of October 28th Negotiation Session**

John Nelson then reviewed the October 28 session and resultant output (information on MMWD/SCWA and Windsor/SCWA agreements, referral of some water conservation issues to the Water Conservation Subcommittee, and consensus reached on overarching planning/environmental and governance issues).

#### **D. Report from Water Conservation Subcommittee on Water Conservation Issues**

Chris DeGabriele noted the subcommittee had met on November 18<sup>th</sup> and reported the subcommittee's recommendations and the Parties voted as follows:

Issue 1 - Should new agreement contain a separately identified Water Conservation Charge?

WC Subcommittee Recommendation:

**Depends on whether MMWD is “in” or “out” of new agreement:**

- **If MMWD is signer, recommendation is to create separate water conservation charge.**
- **If MMWD retains current status, recommendation is to continue collecting funds for water conservation programs as part of the O&M charge but add language to the new agreement that would provide for separate sub-accounting of O&M funds spent on water conservation programs. (9/0/0)**

In connection with this issue, the Parties debated how conservation revenues should be distributed. It was noted by Randy Poole that the existing agreement does not spell that out but that by separate resolutions of each of the WAC members, a 10 year, \$15 million dollar program had been implemented to assist in achieving 6,600 afa of conservation targeted in the Transmission System EIR to be distributed to existing primes in proportion to their entitlements. After discussion the Parties voted as follows:

**The new agreement should include language that memorializes distribution of the first 15 million dollars in proportion to entitlements of the existing signers of the 11<sup>th</sup> Amended Agreement. Revenues collected over and above that amount shall be provided to projects approved by the WAC. (8/1/0)**

Issue 2 - Petaluma City Council's feedback on separate Water Conservation Charge.

Pam Torliatt reported that the City preferred each contractor independently finance their own water conservation programs but stated inclusion of a Water Conservation Charge in the new agreement was not a deal breaker (i.e. they can live with it) if the other Parties prefer its creation.

Issue 3 - Impact of Windsor pertaining to water conservation funding.

WC Subcommittee Recommendation:

**The subcommittee agrees with inclusion of the language immediately above (*refers to the language regarding MMWD under Issue 1*) in the**

**new agreement assuming a separate water conservation charge is levied. Even if water conservation projects continue to be funded from the O&M charge, the subcommittee recommends that language be included in the new agreement that would state SCWA's intent to vigorously pursue institution and collection of such a charge from all Russian River Customers with the understanding that the funds would be granted back to such customers for conservation programs they would agree to implement or spent on conservation programs that will benefit such customers. (In Windsor's case then it would currently pay the Agency about \$30 per acre-foot for all water produced from its wells and receive this sum back in contract grants much as other water contractors now do whether Windsor becomes a signer to the new agreement or not. If Windsor does not become a signer, amendment of its current unilateral agreement with SCWA would need to occur to permit collection of such a charge.) (9/0/0)**

Issue 4 - Inclusion of specific water conservation target values.

WC Subcommittee Recommendation:

**Include no specific targets but rely on BMPS as being the minimum conservation standard. To assure a practical method of tracking implementation and compliance with BMPS, add language to Section 1.12 requiring each prime contractor to annually complete and file the CUWCC report form. (9/0/0)**

Issue 5 - WAC process for identifying and approving water conservation programs.

WC Subcommittee Recommendation:

The subcommittee supports the language suggested by the SCWA for Section 1.1 and *(correction noted by Parties)* 2.5 including the expanded definition of water conservation programs to include any project or activity that will reduce potable water use within a regular customer's or Russian River Customer's service area and any local water production capacity projects that will reduce demand on the Transmission System provided the project has been approved by the WAC.

The Parties debated the process. John Nelson noted that the recommended implementation language defined water conservation projects along the lines contained in the MOU and suggested by SCWA. The Parties did not vote on this matter, preferring that an ad hoc committee comprised of Randy Poole, Chris DeGabriele, and John Nelson meet and confer on the language, particularly the memorializing of the existing distribution practice for the first \$15 million devoted to conservation projects and then bring this item back at the next negotiation session.

Issue 6 – Recommended language to implement Issues 1 through 5.

Chris DeGabriele noted John Nelson had prepared recommended language (refer Attachment F of Summary Report of Second Negotiation Session).

After discussion the Parties decided to also refer this language to Randy Poole, Chris DeGabriele and John Nelson for review and editing and to present same at the next negotiation session.

**E. Update by Agency on progress re. analyses of pros and cons of including MMWD and Windsor as Prime Contractors**

Mr. Poole said three issues had to be considered: economics, environmental and political. He said he plans to get together with Pam Nicolai, Ron Theisen, Matt Mullan, Miles Ferris, Chris DeGabriele and John Nelson and prepare a report addresses these. He said he would try to complete the task by the January negotiation session.

**F. Forestville Water District Status**

Asked whether FWD would opt out of the agreement as a “Prime”, Mr. Poole noted they were not present but understands that will be ok with them provided their entitlement remains guaranteed. Mr. Nelson noted that currently FWD was covering the annual demands of VOMWD via a letter granting use of excess entitlement water and that problem which involves an invalid annual cap in the 11<sup>th</sup> Amended Agreement for VOMWD needs also to be resolved.

**G. Framework Issue Area I: Overarching Provision Regarding Planning and Consideration of Environmental Impacts**

The Parties reviewed and amended the implementing language recommended by John Nelson as follows:

**“3.1 Planning**

**Providing ample opportunity for input from the public, the Agency shall periodically quantify the best possible water resource mix that optimizes provision of a reliable and economical supply of high quality water and related services while promoting a healthy environment that supports aquatic life and beneficial uses (3/6/0). Quantification shall include consideration of all available supplies including conservation, recycling, ground water and surface water; and, take into account levels of reliability (including the reliability of Eel River diversions), watershed needs and environmental impacts. Maximizing opportunities that will result in minimizing or avoiding environmental mitigation and restoration costs shall be a high priority. In undertaking this effort, the Agency shall consider the**

**goals and plans of organizations having a lead role in watershed planning, such as the Russian River Watershed Council and the North Bay Watershed Association.** (9/0/0) **The Water Advisory Committee shall determine how frequently this planning effort or elements of this planning effort will be undertaken or updated.”** (Overall vote after amendments made: (9/0/0)

Randy Poole stated that the SCWA could not agree with this language as written for it was too onerous an obligation on the Agency and the Agency was not proposing any language at this time. He said it was inappropriate to include in the agreement. Several representatives stated they were surprised to hear this view since this policy had been enunciated for some time and stemmed from much public input and review by the various Boards and Councils. Pam Torliatt noted that the language meant the WAC was responsible for funding the planned studies. Mike Martini noted this was an important key issue that needs to be addressed. Mr. Poole said that the issue is addressed in the materials being prepared for the Water Policy Workshop that his Board has scheduled for December 16<sup>th</sup>. He said the material should be available for distribution by the first week of December. Further discussion of this item was deferred until after the December 16<sup>th</sup> Workshop to the next negotiation session.

#### **H. Framework Issue Area VII: Agreement Governance, Item S (see Attachment B)**

The Parties reviewed the following implementing language suggested by John Nelson:

##### “5.3 Composition

The Water Advisory Committee shall be composed of one elected representative selected by each water contractor- and shall be assisted by a Technical Advisory Committee comprised of one non-elected representative selected by each water contractor. The Water Advisory Committee shall generally meet quarterly as it determines necessary and which shall include two meetings scheduled with the Board of Directors of the Agency. The Technical Advisory Committee shall generally meet monthly as it determines necessary.”

It was suggested the word “elected” in the first sentence be replaced with “designated”. A debate then ensued revisiting the whole idea of a two-tier committee and how it would work. Randy Poole said his Board would not agree to meeting as a full Board with a single representative of each contractor. Chris DeGabriele suggested the WAC remain as presently constituted and meet monthly and that one or two policy meetings be held each year with the Board of Directors of the Agency. Mike Martini said, subject to checking with his council, Santa Rosa could support that. It was agreed that an ad hoc committee comprised of Mike Martini, Jake MacKenzie, Pam Torliatt, a member of the NMWD Board (Jack Baker) and Jack Gibson meet with Randy Poole and two of the Directors of the Agency and discuss the issue of how to better communications between the WAC and the Agency Board – date and time to be arranged by Mr. Poole.

The Parties decided to defer further discussion on Item S and the balance of the governance issues, T, U, V and W (refer Attachment B) until feedback from the ad hoc committee was available at the next negotiation meeting.

#### **I. IBN Schedule**

The Parties, running out of time, directed Consultant John Nelson to propose a schedule of IBN negotiation activity based on the Framework Issues and provide same at the next meeting.

#### **J. Posting of Negotiation Session Recap Reports**

Queried by Mr. Nelson, the Parties directed that the consultant's recap of negotiation meetings be posted on the new agreement Internet site.

#### **K. Negotiation Meeting Date**

The Parties reviewed the negotiation meeting date and confirmed that the their would be no negotiation meeting in December and that subsequent negotiation meetings would be held at 9:00 AM – Noon on the fourth Monday of every month (next one being January 27, 2003).

#### **L. Closing Public Comment**

Brenda Adelman expressed concern about the Agency's reaction regards the overarching planning/environmental policy and how this appears disconnected from the detailed pages of suggested policy devoted to the issue in the new general plan update process now proceeding. She also expressed concern about the non-public meeting planned with the supervisors on the issue of governance.

#### **M. Follow-up Tasks**

1. Consultant John Nelson to provide recap of meeting.
2. Revised Conservation Issue Language from group meeting to work up the revisions (Randy Poole, Chris DeGabriele and John Nelson).
3. Feedback from ad hoc committee (Mile Martini, Jake Mackenzie, Pam Torliatt, Chris DeGabriele/NMWD Director and Jack Gibson) who will be meeting with two Agency Board members re. bettering communications with the Agency Board and recommendations on how the governance issue related to same (Issue S) should be worked out.
4. Update or report from SCWA on pros/cons of including MMWD and Windsor as "Primes".

5. Consultant John Nelson to provide suggested IBN Schedule based on Framework Issue List.

**N. Next Negotiation Session**

Time and Date: 9:00 AM-12:00 PM, January 27, 2003  
Place: Santa Rosa's Laguna Treatment Plant

**Attachment A**  
**11/25/02 Session Attendees**

Public Agency Attendees:

Chris Sliz, City of Santa Rosa  
Miles Ferris, City of Santa Rosa  
Jane Bender, City of Santa Rosa  
Mike Martini, City of Santa Rosa  
Virginia Porter, City of Santa Rosa  
John Nelson, JONWRM  
Jake Mackenzie, City of Rohnert Park  
Joe Netter, City of Rohnert Park  
Joe Gaffney, City of Rohnert Park  
Bill Stephens, City of Rohnert Park  
Chris DeGabriele, North Marin Water District  
Syed Rizvi, North Marin Water District  
Mike Fuson, City of Sonoma  
Al Bandur, City of Sonoma  
Toni Bertolero, City of Cotati  
Pam Nicolai, Marin Municipal Water District  
Paul Berlant, Town of Windsor  
Matt Mullan, Town of Windsor  
Mark Bramfitt, Valley of the Moon Water District  
Mike Ban, City of Petaluma  
Pam Torliatt, City of Petaluma  
Steve Simmons, City of Petaluma  
Randy Poole, Sonoma County Water Agency

Public Attendees:

Bob Anderson, United Winegrowers  
Brenda Adelman, RRWPC  
Jo Timmsen, Tell the Truth

## **Attachment B**

**Topics I and VI from “Framework Issues to be Included in New Agreement Negotiation”** (Framework Issues List as revised by WAC on June 3, 2002, after considering changes recommend by the public at Workshop No. 4)

### **“I. Over-arching Provision Regarding Planning and Consideration of Environmental Impacts**

- A Provide ample opportunity for input from the public and periodically quantify the best possible water resource mix which optimizes provision of a reliable and economical supply of high quality water and related services while promoting a healthy environment. Quantification shall include consideration of all available supplies including conservation, recycling, ground water and surface water; and, take into account levels of reliability (including the reliability of Eel River diversions), watershed needs and environmental impacts. Maximizing opportunities that will result in minimizing or avoiding environmental mitigation and restoration costs shall be a high priority. The WAC shall determine how frequently this planning effort or elements of same will be undertaken.”

### **“VII. Agreement Governance**

- S Reorganize WAC into a two-tier committee - technical and policy. The technical committee to meet monthly as needed and be comprised of an appointed staff representative from each local agency signatory to the agreement. The policy committee to meet every other month as needed including two semiannual meetings with Directors of the SCWA and to be comprised of an elected official appointed by the elected body of each agency signatory to the agreement. Voting to remain the same, i.e. weighted in proportion to average day peak month entitlement and require a clear majority of WAC members.
- T Include language in the agreement regarding provision of information on a timely basis.
- U Review adequacy of current reporting requirements and consider appropriate amendments, including provisions for conducting outside management audits.
- V Memorialize a recent practice of SCWA - namely development of a website and posting of information.
- W Consider alternative voting requirements to: (a) amend the agreement, and (b) for other WAC authorities.”

Note: Alphanumeric designations are same as contained on Framework Issues List.